

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:22-CV-117-RJC-DCK**

PAYTON BERGIN,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
MERCK, SHARP & DOHME CORP., and)	
MERCK & CO., INC.,)	
)	
Defendants.)	
_____)	

THIS MATTER IS BEFORE THE COURT on “Defendants’ Motion To Dismiss” (Document No. 10) filed June 10, 2022. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion, the record, and applicable authority, the undersigned will direct that the pending motion to dismiss be denied as moot.

Federal Rule of Civil Procedure 15 applies to the amendment of pleadings and allows a party to amend once as a matter of course within 21 days after serving, or “if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed.R.Civ.P. 15(a)(1).

In this case, Plaintiff has timely filed a “First Amended Complaint” (Document No. 14) in response to “Defendants’ Motion To Dismiss” (Document No. 10). See (Document Nos. 12 and 13). The Amended Complaint supersedes the original Complaint (Document No. 1).

It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot. Young v. City of Mount

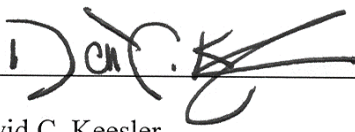
Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.”); see also, Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”); Colin v. Marconi Commerce Systems Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs’ filing of the Second Amended Complaint”); Brown v. Sikora and Associates, Inc., 311 Fed.Appx. 568, 572 (4th Cir. Apr. 16, 2008); and Atlantic Skanska, Inc. v. City of Charlotte, 3:07-CV-266-FDW, 2007 WL 3224985 at *4 (W.D.N.C. Oct. 30, 2007).

To the extent Defendants contend the Amended Complaint is deficient, this Order is without prejudice to Defendants filing a renewed motion to dismiss the Amended Complaint, as appropriate.

IT IS, THEREFORE, ORDERED that “Defendants’ Motion To Dismiss” (Document No. 10) is **DENIED AS MOOT**.

SO ORDERED.

Signed: July 6, 2022



David C. Keesler
United States Magistrate Judge

